

REMARKS

The Applicant has argued that Kameyama fails to teach or suggest the determination of the number of defective elements by analyzing the data during the frame read out. The Examiner responds that “number of defective pixels would be available after the complete frame was read out and analyzed by determining the last space in memory used.” But this begs the patentability question. It amounts to an assertion that what the Applicant claims to be doing, could be done in the cited reference, even though the cited reference does not bother to do so. Even if that were so, it is irrelevant to the anticipation inquiry. The fact of the matter remains that the reference does not teach determining the number of pixel elements.

Further, the Examiner argues that “the amount of memory used for a fixed length address, and additional information, would indicate the number of addresses stored and, thus, the number of defective pixels.” By the term “indicate,” the Examiner obviously means that it would provide information from which the number of pixels could be determined. But, again, the test is not what could be done, but what is done. Here, there is no determination of the number of defective elements. Therefore, reconsideration of the rejection is respectfully requested.

With respect to Vincent, the Examiner now contends that “Vincent inherently discloses the determination of the number of defective pixel elements.” However, the location of defective pixels does not amount to a determination of the number of pixels. Just because Vincent could determine it from information he has, does not teach doing so.

Moreover, in order to make out an inherency rejection, the reference must necessarily do what is claimed. Here, there is absolutely no indication whatsoever that even if Vincent could determine the number of defective pixel elements, that he ever does so.

Therefore, reconsideration of the rejection based on Vincent is requested.

With respect to the argument based on Heller, the Examiner relies on his previous analysis and, for the reasons set forth above, reconsideration is requested.

With respect to the rejection of claim 15, the Applicant is at a loss as to how to respond. On the one hand the Examiner contends that claim 15 is anticipated by either Vincent or Kameyama and on the other hand indicates that those same claims are obvious over the combination of the two. Surprisingly, this is not a typographical error. Obviously, one of the Examiner’s positions is wrong. It is not up to the Applicant to determine what the rejection

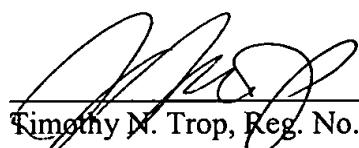
should be. Since the rejections are inconsistent on their face, and admittedly so, at least one of them should be reconsidered.

Moreover, there is no rationale to combine Vincent and Kameyama. Since neither teaches the claimed invention, the combination is unavailing.

Therefore, reconsideration of the alternative and inconsistent rejection under Section 103 is respectfully requested.

In view of these remarks, reconsideration is respectfully requested.

Respectfully submitted,



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